

REMARKS

Examiner has rejected claims 1-14, 16 under 35 U.S.C. § 102(b) as being anticipated by Kelley (US 2,495,974). In response thereto, Applicant has amended claims 1, 3, 7, and 12, added new claims 17, 18, 19, 20, 21, 22 and 23, and respectfully traverses Examiner's rejection.

With regard to Independent Claims 1, 7 and 12, Applicant respectfully asserts that Kelley does not teach an apparatus and method of use thereof comprising a squaring lip, wherein said squaring lip is disposed on the housing. See Claims 1, 7 and 12, currently amended. Therefore, Applicant has incorporated such structural features into amended Claims 1, 7 and 12. Moreover, Applicant respectfully asserts that because underlying Independent Claims 1, 7 and 12 have been distinguished from Kelley by the amendment hereinabove, Applicant believes that Examiner's rejections regarding Depending Claims 2 - 6, 8-11, and 13-16 are now moot.

Furthermore, regarding claim 3, Applicant respectfully notes that Kelley does not teach a housing comprising "a truncated flat front wall for allowing said housing to rest against a wall surface." See Claim 3, currently amended. Thus, Applicant has incorporated such structural features into amended Claim 3. Applicant

respectfully asserts that this truncated flat front wall permits his tool to fit squarely between a first surface and a perpendicularly disposed second surface, a feature that is necessary for a squaring and framing layout tool. Accordingly, Applicant's combination measuring tool and gauging block comprises several features and advantages that are not contemplated by the cited patents.

In addition, Examiner has rejected Claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Kelley in view of Pearson (US 3,046,884). In response thereto, Applicant has amended claim 12 and respectfully traverses Examiner's rejection.

Examiner bases this rejection on his contention that "Kelley discloses the apparatus and method as described above [, i.e., the device disclosed in Applicant's original claims 1-6]" (Page 5, ¶ 2 of the Office action (emphasis added)). However, Applicant respectfully submits that, because Applicant has now distinguished his invention from Kelley by the amendments and arguments provided hereinabove, Examiner's § 103(a) rejection is now moot. More specifically, Applicant respectfully asserts that his invention has several structural advantages over the device taught by Kelley, wherein such structural advantages yield a tool that is better suited to function as a combination measuring tool and gauging block, therefore resulting in a device and method therefor that is far superior to the

tool taught by Kelley. As such, it would not have been obvious for one having ordinary skill within the art to incorporate a squaring lip and a truncated flat front wall to the device taught by Kelley to arrive at Applicant's device.

In addition to the above amendments and remarks, Applicant respectfully submits that his invention comprises additional structural features that distinguish his device and method therefor over the cited patents. More specifically, unlike the device taught by Kelley, Applicant's invention comprises a housing having an enlarged cutout for presenting the measuring wheel and exposing same to the exterior of the housing (See FIGS. 1, 3 and 4). Unlike Kelley, such an enlarged cutout permits a large portion of a single measuring wheel to be exposed for contacting a workpiece. Therefore, Applicant's device is adapted to measure distances over uneven surfaces of various shapes and materials, whereas the multi-wheel designs taught by the prior art are limited to use over relatively level surfaces. For example, unlike Applicant's invention, neither Kelley or Pearson is capable of measuring the inner circumference of a circular loop. Moreover, the enlarged cutout of Applicant's invention provides an additional viewing area for reading the incremental line markers of the measuring wheel. As such, Applicant's measuring wheel could comprise numerous sets of incremental line markers having differing scales of measurement.

Further unlike the prior-art patents cited by Examiner, Applicant's invention comprises a squaring lip, wherein the squaring lip comprises a nail hole and string groove for retaining plumb construction lines therewithin. (See Applicant's original specification, page 18, lines 22-23, page 19, lines 1-11). To further assist as a squaring and layout tool, Applicant's invention also comprises plumb line and roof pitches line markings disposed on the large surface walls of the housing, wherein the plumb line markings are utilized to level the tool on a workpiece, and wherein the roof pitches markings are utilized to frame rafters and other similar building components. (See Applicant's original specification, page 18, lines 1-9).

Further distinguishing Applicant's invention from the tools taught by Kelley and Pearson, it is noted that Applicant's invention possesses a single narrow measuring wheel, whereas the tools in Kelley and Pearson include multiple wheels that are much wider than the wheel taught by Applicant. As such, the multiple wide wheels of Kelley and Pearson are designed to ensure that the tool moves in a straightforward linear direction, whereas Applicant's single narrow wheel allows the tool to be turned and change direction easily. Moreover, Applicant notes that his measuring apparatus is specifically designed to act as a framing template, wherein the

shapes, sizes and angles of the most common wood framing components are incorporated into the design of the tool's housing. Although Kelley discloses a housing that may be utilized as a gauging block and layout tool, the housing in Kelley may not be utilized as a template.

CONCLUSION

The above-made amendments are to form only and thus, no new matter was added. Applicant respectfully believes that the above-made amendments now place the claims and application in condition for allowance. Should the Examiner have any further questions and/or comments, Examiner is invited to telephone Applicant's undersigned Attorney at the number below.

Respectfully submitted, this 18th day of January, 2005.



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